

REMARKS

Claims 32 and 47 have been amended. Claim 56 has been canceled. Claims 32-55, 57-68 and 97 are now pending. The Title of the Invention has been amended to correspond more closely to the pending claims. Applicants reserve the right to pursue the original claims and other claims in this and other applications. Applicants respectfully request reconsideration of the above-referenced application in light of the amendments and following remarks.

Claims 32 and 56 stand objected to because of informalities. Claim 32 has been amended to recite that "the top conducting layer of the top electrode [is annealed] with an oxidizing gas anneal." Claim 56 has been canceled. Accordingly, the objections should be withdrawn.

Claims 32-61, 64-68, and 97 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No.: 6,475,854 ("Narwankar"). The rejection is respectfully traversed.

At the outset, Applicants note that the prior art rejections of all the pending claims, *e.g.*, claims 32-68 and 97, are entirely predicated on the Narwankar reference. Narwankar issued as a patent on November 5, 2002. Narwankar first published on November 22, 2001 as U.S. 2002/0043453 A1. Narwankar's date of filing is December 21, 2000. Narwankar claims the benefit of provisional application no.: 60/173,928 ("928 provisional application"), filed on December 30, 1999. Thus, the earliest effective date of the Narwankar reference is December 30, 1999.

Applicants respectfully submit, however, that the subject matter of claims 32-61, 64-68, and 97, was not disclosed in Narwankar's '928 provisional application, filed on December 30, 1999. Accordingly, the earliest effective date of the Narwankar

reference in regards to the subject matter of the rejected claims, then becomes December 21, 2000. The instant application was filed on December 5, 2001, and is a divisional of U.S. patent app. no.: 09/588,008, which was filed on June 6, 2000. Accordingly, Narwankar is not prior art against the present application.

The Office Action states that in regards to claims 32, 56-61, 64-68, and 97, Narwankar discloses forming a bottom conducting layer 909, 602, 604, 605, forming a dielectric layer 912, 606 over the bottom conducting layer, forming a top conducting layer 608, 610, and annealing the entire top conducting layer with an oxidizing gas anneal (pg. 3). In support of this assertion, the Office Action cites Narwankar's Table 1, col. 10, lines 15-40 which correspond to FIGS. 6c-6d, and col. 11, lines 4-50 which correspond to FIG. 6e. Table 1 and FIGS. 6c-6e, however, were not in the '928 provisional application, filed on December 30, 1999. In fact, there is no disclosure in the '928 provisional application of any layers corresponding to elements 602, 604, 605, 606, 608, 610, 909, and 912. Therefore, since Narwankar is not entitled to the '928 provisional application filing date for the subject matter on which to reject Applicants' claims, it is not prior art to the subject matter of claims 32, 56-61, 64-68, and 97, and all rejections based thereon should be withdrawn.

The Office Action asserts that as to claim 34, Narwankar discloses the steps including annealing the dielectric layer 912, and cites col. 15, lines 25-30, which corresponds to FIG. 9f. FIG. 9f was not in the '928 provisional application. There is no disclosure of annealing dielectric layer 912. Accordingly, Narwankar is not prior art to the subject matter of claim 34.

The Office Action asserts that as to claims 35-41 and 48-55, Narwankar discloses "the bottom and top conducting layers are made from Pt or Rh," and cites Table 1 for support. As indicated above, Table 1 was not in the '928 provisional

application. Accordingly, Narwankar is not prior art to the subject matter of claims 35-41 and 48-55.

The Office Action asserts that as to claims 42-46, Narwankar discloses "the dielectric layer is made of Ta₂O₅ or BST," and cites Table 1 for support. As indicated above, Table 1 was not in the '928 provisional application. Accordingly, Narwankar is not prior art to the subject matter of claims 42-46.

The Office Action asserts that as to claim 47, Narwankar discloses that "the amorphous dielectric layer is heated to a temperature of over 200 degrees Celsius to change the layer to crystalline," and cites Table 1 for support. As indicated above, Table 1 was not in the '928 provisional application. Accordingly, Narwankar is not prior art to the subject matter of claim 47.

The Office Action asserts that as to claims 49-55, Narwankar discloses "the top and bottom conducting layer is a noble metal (Pt, Ru, RuO)," and cites Table 1 for support. As indicated above, Table 1 was not in the '928 provisional application. Accordingly, Narwankar is not prior art to the subject matter of claims 49-55.

Claims 62 and 63 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Narwankar. The rejection is respectfully traversed.

Claim 62 depends from claim 32 and is similarly allowable along with claim 32 for at least the reasons provided above. Claim 63 depends from claim 62 which depends from claim 32, both claims are similarly allowable along with claim 32 for at least the reasons provided above. In particular, Narwankar is not prior art against the present application.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: December 29, 2004

Respectfully submitted,

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